

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Donniel Woods, # 272800;)	C.A. No. 9:08-3767-TLW-BM
)	
Plaintiff;)	
)	
vs.)	ORDER
)	
The State of South Carolina Judicial,)	
)	
Defendant.)	
_____)	

The Plaintiff, proceeding *pro se*, brings this action seeking relief for certain alleged constitutional violations. Plaintiff is incarcerated at Lee Correctional Institution, having previously been convicted of criminal sexual conduct.

On January 23, 2009, United States Magistrate Judge Bristow Marchant, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.), filed a Report and Recommendation (“the Report”). In his Report, Magistrate Judge Marchant recommends that the Plaintiff’s complaint be dismissed without prejudice and without issuance and service or process. On February 5, 2009, Plaintiff filed objections to the Magistrate’s Report.

This Court is charged with reviewing the Magistrate’s Report and the Plaintiff’s objections thereto. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and

Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of this standard, the Court has carefully reviewed, de novo, the Report and the objections thereto and has concluded that the Report reaches the appropriate result in this case. The Report construes a statement in Plaintiff's complaint as Plaintiff requesting a writ of mandamus. The Plaintiff objects to this characterization of the statement. However, grounds for dismissal provided in the Report are proper and sufficient for dismissal. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 15); Petitioner's objections are **OVERRULED** (Doc. # 18); and Petitioner's complaint is dismissed without prejudice for failure to state a claim upon which relief may be granted.

IT IS SO ORDERED.

S/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

April 23, 2009

Florence, South Carolina